

1 CHAPTER 6.

2 TOLL FACILITIES AND FERRIES.

3 **Drafting note: This proposed chapter is a new chapter combining all sections on**  
4 **ferries, toll bridges, and toll facilities.**

5 § ~~33.1-254~~ 33.2-600. Acquisition or establishment of ferries.

6 The ~~Commonwealth Transportation~~ Board may acquire by purchase, condemnation, or  
7 gift any ferry within the Commonwealth ~~which that~~ forms a connecting link in a state highway  
8 and may purchase all equipment and other things necessary for the establishment of new ferries  
9 to become connecting links in the primary or secondary state highway ~~systems~~ system,  
10 whenever it shall determine such action to be advisable and expedient. The Board may expend  
11 from state highway construction funds of the highway construction district ~~or districts~~ where the  
12 ferries are located and are under ~~its~~ the Board's control at any time such sums as may be  
13 necessary to acquire or establish, maintain, and operate any such ferry.

14 The Board may operate such ferry either as a free or toll ferry and may establish a toll  
15 for the use of such ferry at such rates as are deemed by the Board to be reasonable and proper  
16 without regulation by any other governmental body.

17 **Drafting note: Technical changes.**

18 § ~~33.1-247~~ 33.2-601. Ferry across Corrotoman River.

19 The public free ferry across the Corrotoman River, in the County of Lancaster,  
20 authorized by the act of ~~the twelfth of~~ March 12, 1847, shall be kept according to such act,  
21 except as otherwise provided in this section ~~provided, that is to say:~~. The Circuit Court of  
22 Lancaster may, in its discretion, have the contract for keeping the same let to the lowest bidder  
23 for a period of five years, and the bonds thereby directed shall be to the County of Lancaster  
24 ~~instead of the justices thereof~~. Furthermore, the ferry shall cross from Merry Point to the upper  
25 side of the wharf and canning factory at Ottoman wharf; ~~provided, that.~~ However, the circuit  
26 court of the county shall have the right, upon the application of the board of supervisors, to  
27 discontinue the ferry if it ~~shall be made to appear~~ appears that public necessity therefor no

longer exists. No such application shall be made unless and until notice ~~thereof, to whom it may concern, be is~~ given by (i) publication once a week for two successive weeks in ~~some a~~ newspaper published in the county, or having general circulation therein, and ~~by (ii)~~ posting copies of the notice at the front door of the courthouse of the county and at both landings of the ferry, ~~such notice to be so posted, and the first publication thereof made, Such notice shall be posted and the first newspaper publication made~~ at least ~~thirty~~ 30 days before the day on which the application will be made to the court.

**Drafting note: Technical changes.**

§ ~~33.1-255~~ 33.2-602. Toll bridges; when privilege ceases.

When an act is passed to authorize the erection of a toll bridge, if the work ~~be is~~ not commenced within one year from the passage of such act or ~~be is~~ not completed within two years after such commencement or if, after its completion, there ~~be is~~ an abandonment of the toll bridge or a failure for three successive years to keep it in good order, the privileges granted by the act shall cease.

**Drafting note: Technical changes.**

§ ~~33.1-256~~ 33.2-603. Bridge Toll bridges not to obstruct navigation or fish.

Every such toll bridge shall be ~~so~~ made so as not to obstruct the passage of fish or the navigation of the watercourse over which it is erected ~~nor the passage of fish~~.

**Drafting note: This section was previously located in an article exclusively regarding toll facilities and so it is amended to refer to "toll bridges" rather than "bridges."**

§ ~~33.1-257~~ 33.2-604. How right to demand tolls ascertained and rates fixed or changed.

~~No tolls shall be received for passing any such bridge until it shall appear to the circuit court of the county wherein the same is that it is completed according to the act authorizing it. Tolls shall be received for passing a bridge only after it appears to the circuit court of the county where the bridge is located that the bridge is completed according to the act authorizing it.~~ The court shall ascertain whether it is ~~or is not~~ so completed by appointing three disinterested

freeholders to view it. If they report in writing that it is so completed and their report ~~be is~~ confirmed by the court, the person authorized to erect it, ~~or~~ his heirs or assigns, may ~~thenceforth~~ then demand and receive, ~~on persons and things passing the same,~~ tolls at the rates fixed by such act ~~or, if none be so~~ from persons or things passing over the bridge. If no rates are fixed, then he, or his heirs or assigns may receive tolls at such rates as may, ~~from time to time,~~ be fixed by law. ~~Though If the toll~~ rates ~~of toll be are~~ specified in such act, they may, ~~from time to time,~~ be changed by law, unless ~~in~~ such act otherwise expressly ~~provided provides.~~

**Drafting note: Technical changes.**

§ ~~33.1-258~~ 33.2-605. Appointment of special police officers in connection with toll bridges; qualifications, salaries, and fees of such police officers.

A. The circuit court of any county, ~~or the judge thereof in vacation,~~ in which there is a toll bridge or its approaches, or the circuit court of any county, ~~or the judge thereof in vacation,~~ in which lies any part of any toll bridge, or bridges, or their approaches belonging to the same proprietor, but which toll bridge or bridges ~~and/or or~~ their approaches lie in more than one county ~~or counties,~~ may, upon the application of ~~such the~~ proprietor, appoint any employee of such proprietor, employed in ~~and about~~ the control or ~~the~~ operation of such toll bridge or bridges and approaches, a special police officer, ~~who.~~ Such special police officer may exercise all the powers and duties imposed and conferred upon sheriffs in ~~this the~~ Commonwealth, in criminal matters, upon any such toll bridge, or bridges and their approaches. ~~And such~~ Such power shall extend throughout the Commonwealth when such special police officer is actually in pursuit of a person accused of crime, ~~or when~~ acting under authority of a warrant duly issued for the arrest of a person charged with a crime. ~~But~~ However, no special policeman appointed under this section whose duties as such special policeman are merely incidental to such private employment shall be deemed to be an employee of the Commonwealth or county or counties within which such toll bridges and their approaches lie, within the meaning of the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

§ 33.1-259. Qualifications of such police.

82 B. Before any such appointment is made the court, ~~or judge thereof in vacation,~~ shall be  
83 satisfied that such person has been a bona fide resident of ~~this~~ the Commonwealth for more than  
84 one year immediately preceding such appointment and is of good moral character. ~~And before~~  
85 Before any such person shall be permitted to discharge any of the duties of such special  
86 policeman, he shall take the oath required by law and shall give a bond payable to the  
87 Commonwealth ~~of Virginia~~ in the penalty of not less than \$500, conditioned for the faithful  
88 discharge of his official duties.

89 ~~§ 33.1-260. Salary and fees.~~

90 C. No salary shall be paid to any special police officer appointed under § ~~33.1-258~~ 33.2-  
91 XXX by the Commonwealth or county, or counties, in which such properties lie; nor shall he  
92 receive any fees for making any arrest, executing any warrant, summoning a witness, or  
93 carrying a person to or from jail.

94 **Drafting note: Three short sections dealing with a single subject are combined;**  
95 **technical changes are made.**

96 § ~~33.1-261~~ 33.2-606. Permission required to erect or maintain toll bridges over navigable  
97 water.

98 No toll bridge erected after March 19, 1928, shall be constructed, maintained, or  
99 operated across, in, or over any navigable waters in or of ~~this~~ the Commonwealth, anything in  
100 the charter of any company to the contrary notwithstanding, unless ~~and until~~ a permit ~~therefor be~~  
101 is first obtained from the ~~Commonwealth Transportation~~ Board. The Board may grant or  
102 withhold such permit or prescribe ~~the its~~ terms and conditions ~~thereof~~, as it may deem for the  
103 best interest of the Commonwealth, except so far as such terms and conditions ~~may be~~ are  
104 provided for ~~herein in this chapter~~.

105 **Drafting note: Technical changes.**

106 § ~~33.1-262~~ 33.2-607. Approval of plans by Board; inspection; costs.

107 ~~Before construction is commenced on any such bridge or approaches under any permit~~  
108 ~~granted hereunder, detailed plans, estimates, and specifications must be submitted to the Board~~

~~for approval, and no such bridge shall be constructed unless and until such plans, estimates, and specifications shall have been approved by the Board.~~ Detailed plans, estimates, and specifications shall be submitted to the Board for approval before construction is commenced on a toll bridge or approaches under a permit granted under § 33.2-xxx [33.1-261]. No such toll bridge shall be constructed until such plans, estimates, and specifications are approved by the Board. Access to such work ~~at all times during construction~~ shall be granted to the Board, the Commissioner of Highways, and authorized representatives of either at all times during construction. The permittee shall keep accurate records of the cost of such toll bridge and approaches and real and personal property used in the operation thereof and of all replacements and repairs and shall submit a copy ~~thereof~~ to the Board.

**Drafting note: Technical changes.**

~~§ 33.1-263.~~

**Drafting note: Repealed by Acts 1995, c. 647.**

~~§ 33.1-264~~ 33.2-608. Toll bridges may be purchased by Commonwealth.

In addition to the power of eminent domain as provided by law for ~~roads~~ highways in the ~~State Highway System~~ primary state highway system, the Commonwealth, acting through the Commissioner of Highways, may purchase any such toll bridge and the approaches thereto with the real estate and tangible personal property necessary for their proper operation, at such time as may be specified in the permit granted for such toll bridge, or at the expiration of any two-year period after such time, all at a price equal to the original cost, to be determined as ~~hereinafter~~ provided in this section, less depreciation.

In order to exercise the right of the Commonwealth to purchase and take over any such toll bridge and approaches and real estate and tangible personal property, the Commonwealth, through the Commissioner of Highways, shall give to the permittee, or its successor in title of record to such toll bridge and other property, not less than two months' notice of its intention ~~so~~ to do ~~specifying so and specify~~ the date on which the conveyance will be required. Title to such toll bridge and approaches and property shall be vested in the Commonwealth free of lien at the

time set out in such notice and upon the payment or offer of the purchase price determined in accordance with ~~this article §§ 33.2-XXX through 33.2-XXX~~, to such permittee or successor in title of record to such toll bridge and other property, or to the trustee or trustees, or mortgagor or mortgagees in any deed of trust or mortgage on such property, or to the lien creditor or creditors, as their interest may appear of record.

The original cost of such toll bridge and approaches and real estate and tangible personal property shall be determined by the Commissioner ~~and of Highways. The original cost~~ shall include the actual cost ~~thereof~~ and an additional amount equal to interest at the rate of six percent ~~per annum~~ on the amount actually invested by such permittee, or successor in title of record, in such property, or in hand for investment therein, during the period of construction. ~~There shall be included in "actual costs" all costs including "Actual costs" includes~~ the cost of improvements; financing charges; the cost of traffic estimate and of engineering and legal expenses, plans, specifications, and surveys; estimates of cost and of revenue; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expenses; and such other expenses as may be necessary or incident to the financing of the project and the placing of the project in operation. The Commissioner of Highways shall determine the depreciation and the reasonableness of each item of "actual cost."

**Drafting note: Technical changes.**

~~§ 33.1-265~~ 33.2-609. Conveyance of toll bridge by Commonwealth.

In the event ~~any such a toll~~ bridge, at the time it ~~may be~~ is purchased by the Commonwealth under the provisions of ~~this article §§ 33.2-XXX through 33.2-XXX~~, is not on the line of a ~~road~~ highway then in one of the systems of state highways, the Commissioner of Highways may convey such toll bridge and approaches and other property to such county or counties in which it may be in whole or in part located, upon the payment by such county or counties of the amount paid by the Commonwealth for such toll bridge and approaches and other property, with interest on such amount at six ~~per centum per annum~~ percent per year from

the time of such payment by the Commonwealth, ~~such. The~~ conveyance ~~to~~ shall be executed in the name and on behalf of the Commonwealth by the Commissioner of Highways.

**Drafting note: Technical changes.**

§ ~~33.1-266~~ 33.2-610. Sections ~~33.1-264~~ 33.2-XXX through ~~33.1-265~~ 33.2-XXX not applicable to certain toll bridges.

Nothing contained in §§ ~~33.1-264~~ 33.2-XXX through ~~33.1-265, however,~~ 33.2-XXX shall be construed to apply to any bridge existing or under construction on March 20, 1928, or to bridges constructed within or adjacent to towns or cities having a population of more than 3,500.

**Drafting note: The catchline is amended to reflect that this section applies to toll bridges since it is currently placed in Article 4 on Toll Bridges Generally within existing Title 33.1**

§ ~~33.1-223.2:12~~ 33.2-611. Tolls may vary to encourage travel during off-peak hours.

A. In order to provide an incentive for motorists to travel at off-peak hours, and in accordance with federal requirements, wherever a toll is imposed and collected by the Department or such other entity as may be responsible for imposing or collecting such toll, the amount of such toll may vary according to the time of day, day of the week, traffic volume, vehicle speed, vehicle type, similar variables, or combinations thereof. The amount of such toll and the time of day when such toll ~~shall change~~ changes shall be as fixed and revised by the ~~Commonwealth Transportation~~ Board or such other entity as may be responsible for fixing or revising the amount of such toll; provided, however, that any such variation shall be reasonably calculated to minimize the reduction in toll revenue generated by such toll.

B. 1. Beginning July 1, 2008, every agency of the Commonwealth or any political subdivision or instrumentality thereof having control of or day-to-day responsibility for the operation of any toll facility in the Commonwealth shall take all necessary actions to ensure that every newly constructed toll facility under its control is capable of fully automated electronic operation, employing technologies and procedures that permit the collection of tolls from users of the facility, to the extent possible, without impeding the traffic flow of the facility. An entity

operating a toll facility that substantially upgrades its equipment or substantially renovates its facility after July 1, 2008, shall comply with the provisions of this subsection. The provisions of this section shall also apply to any nongovernmental or quasigovernmental entity operating a toll facility under a comprehensive agreement entered into, pursuant to the Public-Private Transportation Act of 1995 (§~~56-556-33.2-XXX~~ et seq.), on or after January 1, 2008. Nothing in this subsection shall be construed to prohibit a toll facility from retaining means of nonautomated toll collection in some lanes of the facility.

2. For toll facilities within the territory embraced by the Northern Virginia Transportation Authority, the provisions of subdivision 1 apply to all toll facilities, regardless of whether or not they are newly constructed or substantially upgraded.

**Drafting note: Technical changes.**

§ ~~33.1-251~~ 33.2-612. Unlawful for Department of Transportation to permit free passage over certain toll bridges and ferries; exceptions.

Except for those persons exempted from tolls under § ~~33.1-252~~ 33.2-XXX, it shall be unlawful for the Department ~~of Transportation~~ or any employee thereof to give or permit free passage over any toll bridge, tunnel, or ferry ~~which that~~ has been secured through the issuance of revenue bonds and which bonds are payable from the revenues of such project. Every vehicle shall pay the same toll as others similarly situated. Except as provided in § ~~33.1-252~~ 33.2-XXX, the provisions hereof shall apply ~~with full force and effect~~ to vehicles and employees of the state government, local governments ~~of counties, cities and towns~~, or other political subdivisions; and to vehicles and persons of all other categories and descriptions, public, private, eleemosynary, or otherwise.

**Drafting note: Technical changes.**

§ ~~33.1-252~~ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.

A. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the ~~Commonwealth Transportation~~



Board; however, notwithstanding the provisions of subdivision B 1 of § ~~56-543~~ 33.2-XXX, said vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.). Upon presentation of a toll pass issued pursuant to regulations promulgated by the ~~Commonwealth Transportation~~ Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in ~~this~~ the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Virginia Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. Members of the Alcoholic Beverage Control Board;
7. Employees of the regulatory and hearings divisions of the Department of Alcoholic Beverage Control and special agents of the Department of Alcoholic Beverage Control;
8. The Commissioner of the Department of Motor Vehicles;
9. Employees of the Department of Motor Vehicles;
10. Local police officers;
11. Sheriffs and their deputies;
12. Regional jail officials;
13. Animal wardens;
14. The Director and officers of the Department of Game and Inland Fisheries;
15. Persons operating ~~fire-fighting~~ firefighting equipment and ambulances owned by a political subdivision of the Commonwealth or a nonprofit association or corporation;
16. Operators of school buses being used to transport pupils to or from schools;
17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;

243 18. Employees of the Department of Rail and Public Transportation;

244 19. Employees of any transportation facility created pursuant to the Virginia Highway  
245 Corporation Act of 1988; and

246 20. Law-enforcement officers of the Virginia Marine Resources Commission.

247 B. Notwithstanding the ~~foregoing~~ provision of ~~this~~ subsection A requiring presentation  
248 of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of  
249 concern for public safety on the highways of the Commonwealth, the Department of  
250 Transportation shall, in order to alleviate an actual or potential threat or risk to the public's  
251 safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the  
252 temporary suspension of toll collection operations on its facilities.

253 ~~a.~~ 1. The assessment of the threat to public safety shall be performed and the decision  
254 temporarily to suspend toll collection operations shall be made by the Commissioner of  
255 Highways or his designee.

256 ~~b.~~ 2. Major incidents that may require the temporary suspension of toll collection  
257 operations shall include, ~~but not necessarily be limited to~~ (i) natural disasters such as hurricanes,  
258 tornadoes, fires, and floods; (ii) accidental releases of hazardous materials such as chemical  
259 spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents  
260 deemed to present a risk to public safety.

261 ~~c.~~ 3. In any judicial proceeding in which a person is found to be criminally responsible  
262 or civilly liable for any incident resulting in the suspension of toll collections as provided in this  
263 subsection, the court may assess against the person an amount equal to lost toll revenue as a part  
264 of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any  
265 individual incident, be paid to the Department of Transportation for deposit into the toll road  
266 fund.

267 ~~B.~~ C. Any tollgate keeper who ~~shall refuse~~ refuses to permit the persons listed in  
268 subsection A ~~of this section~~ to ~~pass through such tollgate or over such~~ use any toll bridge ~~or, toll~~  
269 ferry, ~~or toll road or~~ toll tunnel, or toll road upon presentation of such a toll pass, ~~shall be~~ is

270 guilty of a misdemeanor ~~and punished~~ punishable by a fine of not more than \$50, and not less  
271 than \$2.50. Any person other than those listed in subsection A who ~~shall exhibit~~ exhibits any  
272 such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel ~~or ferry shall be, or~~  
273 toll road is guilty of a Class 1 misdemeanor ~~and punished accordingly~~.

274 B1. D. Any vehicle operated by the holder of a valid driver's license issued by ~~Virginia~~  
275 the Commonwealth or any other state shall be allowed free use of all toll bridges, toll roads, and  
276 other toll facilities in ~~Virginia~~ the Commonwealth if:

- 277 1. The vehicle is specially equipped to permit its operation by a handicapped person;
- 278 2. The driver of the vehicle has been certified, either by a physician licensed by ~~Virginia~~  
279 the Commonwealth or any other state or by the Adjudication Office of the ~~United States~~ U.S.  
280 Department of Veterans ~~Administration Affairs~~, as being severely physically disabled and  
281 having permanent upper limb mobility or dexterity impairments ~~which~~ that substantially impair  
282 his ability to deposit coins in toll baskets;
- 283 3. The driver has applied for and received from the Department of Transportation a  
284 vehicle window sticker identifying him as eligible for such free passage; and
- 285 4. Such identifying window sticker is properly displayed on the vehicle.

286 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll  
287 facilities in ~~Virginia~~ the Commonwealth. The Department of Transportation shall provide  
288 envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection  
289 and shall accept any payments made by such persons.

290 ~~C. E.~~ Nothing contained in this section or in § ~~33.1-251 or 33.1-285~~ 33.2-XXX shall  
291 operate to affect the provisions of § 22.1-187.

292 ~~D. F.~~ Notwithstanding the provisions of subsections A ~~and~~ B, and C, only the following  
293 persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan  
294 Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-  
295 Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-XXX et seq.) without the payment of toll  
296 when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

~~E.G.~~ Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Authority, pursuant to the requirements of subdivisions D 1 through 4 ~~of subsection B1~~.

**Drafting note: In subsection B, "but not necessarily be limited to" is removed based on § 1-218, which states: "'Includes' means includes, but not limited to." In subdivision D 2, reference to the U.S. Veterans Administration is updated to refer to the U.S. Department of Veterans Affairs, which changed its name in 1989. References to the Department of Transportation retain the full name throughout this section because of references to other Departments. Technical changes are made.**

~~§ 33.1-252.1. Noise abatement measures.~~

~~No local matching funds shall be required in connection with the construction of any noise abatement measures in connection with a facility, connecting two cities with a combined population between 625,000 and 675,000 as determined by the most recent census, whose construction, operation, or maintenance is or is to be funded, in whole or in part, through tolls collected for use of that facility. All costs of construction and maintenance of any and all such noise abatement measures shall be paid from tolls collected for the use of the facility.~~

**Drafting note: This section was intended to apply to the Virginia Beach Expressway (linking Norfolk and Virginia Beach). That facility, however, has been toll-free since 1996, making this section obsolete.**

§ ~~33.1-252.2~~ 33.2-614. Disclosure of certain information relating to use of toll facilities; injunctive relief; ~~attorneys'~~ attorney fees.

A. Neither the Department nor any other operator of any toll bridge, toll road, or other toll facility; nor any employee or contractor with the Department or other toll facility operator shall disclose any information derived from an automated electronic toll collection system; about the time, date, or frequency of use or nonuse of any such facility by any individually identified motor vehicle except when ordered to do so by a court of competent jurisdiction. The provisions of this section shall not apply to information supplied (i) to any person who is a participant in the electronic toll collection system, when such information is limited to vehicles owned or leased by such person; (ii) to the issuer of any credit card or debit card or other third party vendor when such information is necessary for collecting the toll and ensuring the accuracy of such billing by the operator; (iii) for statistical or research purposes, when such information contains no data attributable to individual vehicles or individual participants; or (iv) to federal, state, and local ~~law enforcement~~ law enforcement, when such information is required in the course of an investigation where time is of the essence in preserving and protecting human life ~~and/or~~ or public safety.

B. Any aggrieved person may institute a proceeding for injunction or mandamus against any person, governmental agency, or other entity that has engaged, is engaged, or is about to engage in any acts or practices in violation of the provisions of this section. The proceeding shall be brought in the circuit court of any county or city wherein the person, governmental agency, or other entity made defendant resides or has a place of business. In the case of any successful proceeding by an aggrieved party, the person, governmental agency, or other entity enjoined or made subject to a writ of mandamus by the court shall be liable for the costs of the action together with reasonable ~~attorneys'~~ attorney fees as determined by the court.

**Drafting note: Technical changes.**